O. District Police 51

1951.

File No.

Legal Department

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Subject:— Opinions under the Bombay District Police Act, 1890

P. 29E

File No. O. District-Police/51

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C O N T E N T S.

Legal Department File No. O.District Police/1951

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Office of the R.L.A.

Individual notice and separate proceedings would always be preferable and would be in strict conformity with the provisions of section 46(3) of the Bombay District Police Act, 1890. However, if the case was such that owing to common activities, the proceedings against each individual could have been consolidated, the joint notice can be defended, provided there is material to show that the case of each individual received separate consideration.

Id/- P.N.L. 27/1

Remembrancer of Legal Affairs.

U.R. to H.D., No.1723 dated the 29th January 1951.

KAN/29-6 .
4 c.

Office of the R.L.A.

The view taken by H.D. on the first question is correct. Under section 45(2) of the Bombay District Police Act, 1890, fees can be levied only on persons visiting the fair or place of pilgrimage and not on vehicles. Consequently, the levy of the pilgrim tax on vehicles in the present case is ultra vires. The second question does not survive.

Id/- P.M.L.

Remembrancer of Legal Affairs,

U.R. to H.D. No. 1615, dated the 25th January 1951.

KAN/29-6.
4 c.

Office of the R.L.A.

The question referred to the R.L.A. is whether the piece of wood which was found floating in the sea near Madhavad should be handed over to the Central Excise, as demanded by them; or whether the same should be disposed of under sections 523 and 524 of the Code of Criminal Procedure.

2. From the cryptic report of the D.M., Amreli, it appears that the floating wood was a property derelict within the meaning of section 27 of the Sea Customs Act, and if on the import of such wood a duty was leviable, the Central Excise would be entitled to seize that log of wood for realising the duty. In that case it would be advisable to hand-over the log to the Central Excise. But if the importation of such log was not to be subjected to any duty then the proper course for the District Magistrate was to deal with the property under section 57 of the Bombay District Police Act as an unclaimed property. Section 523 and 524 of the Code of Criminal Procedure would only apply where the property was seized by the Police under suspicion that it was stolen property or that it was concerned in the commission of an offence.

Id/- J.A.D. 2/4

Remembrancer of Legal Affairs.

U.R. to H.D. No.5315, dated the 3rd April 1951.

KAN/29-6.
4 c.

Office of the R.L.A.

Bombay District Police Act, 1890. Section 25(1) & (5).

Classification for purposes of exemption.

It appears that by Government Notification Home Department No.3962/6, dated the 7th October 1950, issued under section 25(1) of the Bombay District Police Act, 1901, Government has directed the appointment of additional Police in the village of Belur in the Bijapur district for a period of one year. The question of recovering the cost of the additional Police stationed at Belur has now arisen. The District Magistrate, Bijapur, has proposed that the following persons may be exempted from the levy of the cost, -

(1) Government servants,

(2) persons in indigent circumstances; and

(3) families of soldiers serving in the army.

H.D. office has taken the view that in view of Article 14 of the Constitution of India and its interpretation in the recent Prohibition Case in the matter of granting exemptions it would not be legally correct to grant exemptions to Government servants and other individuals on the assumption that they do not belong to any party and could not have taken part in the faction fights. Secretary, H.D., however, considers that the power to exempt remains untouched. R.L.A. is requested to confirm his view.

2. It is true that under section 25(5) of the Bombay District Police Act, 1890, it shall be lawful for the Provincial Government by order to exempt any persons from liability to bear any portion of such cost. But this provision will have to be read subject to the provisions contained in Part III of the Consti-

tution of India which prescribe the fundamental rights. Article 14 in Part III guarantees equality before law and a equal protection of the laws to all persons. Recently, the R.L.A. considered in his opinion No. 12457 dated the 30th August 1950, the effect of Article 14 on the provisions of section 45 of the City of Bombay Police Act, 1902.

"It would be reasonable in this context to exempt properties which are used for charitable purposes like hospitals or libraries or which are owned by Government or local authorities for in the former case the burden would fall upon charities and in the latter the burden would fall upon the State or the authorities that is indirectly on the public revenue itself. It may even be reasonable to exempt the portions occupied by Consuls and Diplomatic Corps on the ground of the special immunities which they enjoy under the International Law. It would, however, not be reasonable to exempt that portion of the property which is occupied by Ministers, High Court Judges, or Government servants. The only basis for such classification would be supposed certainly of the occupants not having taken part in the riot. If that were the principle that would apply to a number of other respectable citizens. The position or the standing of Ministers, High Court Judges or Government servants would not be relevant as a principle of classification to entitle them to an exemption from the levy."

The same principle will apply in the present case and it would not be reasonable to exempt Government servants and families of soldiers serving in the Army although such

persons may not have taken part in creating disturbances in the village. In the Prohibition Case, the Bombay High Court has held that the classfication must have a reasonable and just relation to the subject matter. Consequently, these persons cannot be given exemption. However, the persons in ~~the~~ indigent circumstances appear to fall under a different category. It is a general principle that taxes should be levied according to the ability to pay. If people do not have the income to pay their taxes they cannot pay them. Exemptions may be granted to those to whom public money might be voted for taxation like paupers and veterans, but ordinarily exemptions are allowed where it would not be constitutional to vote public money as in the case of religious organisations. (See Willis on "Constitutional~~k~~ Law" page 807). Consequently, persons in indigent circumstances being unable to pay the cost of the additional Police may be exempted from such payment. It may, however, be noted that it may be difficult to determine persons in indigent circumstances. Some basis will have to be formulated for the purpose of determining such persons.

Id/- J.R.D. 23/2

Remembrancer of Legal Affairs.

U.R. to H.D. No.3415, dated the 24th February 1951.

KAH/29-6.
4 c.

R.I. No. 4425 dt/ 7-4-51.

Submitted.

The D.M., Belgaum is of the view that both the factory workers and shareholders of the Ugar Sugar Works Ltd., are inhabitants of the village within the meaning of the explanation under sec. 25 of the Bom. Dist. Police Act, 1890 and are therefore liable to pay the punitive tax. H.D. states that are shareholders are deemed to be the joint owners of the factory and are therefore liable to pay the tax is not correct; that the person liable in this case is the company which exists legally as an individual and the tax should have been levied on the company and not its shareholders. The R.L.A. is requested to advise whether this view is correct.

2. Under clauses (a) or (b) of sub-sec.(2) of sec. 25 of the Bom. Dist. Police Act, 1890 the tax may be imposed either generally on all persons who are inhabitants of the local area to which such notification applies, or specially on any particular section or sections or class or classes of such persons. By H.D. notifn. No.5861/5, dated 10-9-48, issued under sec. 25 of the Bom. Dist. Police Act, 1890, Govt. directed (a) the employment in the villages mentioned in schedule A of additional police for a period of one year etc., (b) that the cost of such additional police as set forth in schedule "B" shall be defrayed by a tax imposed on (1) all adult inhabitants except those belonging to the Brahmin community in respect of additional police stationed at Sangli etc., (2) all adult inhabitants in respect of the additional police

stationed at Kumthe Salegaon etc. (c) Govt. servants, persons serving in the military departments and those who suffered loss and those who may be hereafter exempted, shall be exempted from the payment of the said cost of the additional police.

See 3(35) of the Bom. General Clauses Act, 1904 provides that in all Bombay Acts unless there is anything repugnant in the subject or context, the "person" shall include any company or association or body of individuals whether incorporated or not. It is clear from the expressions such as "all persons who are inhabitants of the local area", and "any particular section or sections or class or classes of such persons" used in sec. 25(2) and the notification referred to above that the word "person" here is so used as to show that it does not include a corporation (See Pharmaticall Society V. London and Provincial Supply Association Ltd., 5 A.C. 857 and R.L.A's opinion No. 11134, dated 21-11-47. A company cannot therefore be made liable to pay the punitive tax.

Sd/- P.S. Nadkarni 11/3

KAN/29-6.
4 c.

Legal Department.

District Police Act, 1890. Section 25(2).

The tax under Home Department Notification No. 5961/5, dated the 10th September 1948 is leviable on all adult inhabitants of the village. The shareholders of the Ugar Sugar Works Ltd. would not prima facie be liable to pay the tax unless they are adult inhabitants of the village. Further the company itself would not be liable to pay tax as it cannot be considered an inhabitant, much less eh "adult inhabitant" which expression denotes a natural person (a human being) and not an artificial person (a corporation).

Id/-

Additional Secretary to Government.

U.R. to H.D. No. 6185, dated the 17th April 1951.

KAH/29-6.
4 c.

Office of the R.L.A.

Secretary, H.D. considers that since it is a case of additional police due to behaviour into two parties in the village, it would be perfectly a fair classfication to exempt persons who are known not to belong to either party and in that case it will be immaterial whether some of them happen to be Government servants or families of those serving in the army as their exemption is not qua Government or family of a soldier. R.L.A. is requested to advise whether there will be any objection to give exemption on the basis that is to say, to persons known to belong to neither party.

The effect of giving exemption on the proposed basis i.e. to persons known to belong to neither party would be to direct the tax against those persons who belong to both the parties. It is true that a valid classffication for the purposes of taxation can be made, but such classification must have a just and reasonable basis for taxation. Justice Harlon in the Ellis case observed:

> "Many cases have been before this court, involving the power of State legislature to impose special duties or liabilities upon individuals and corporations or classes of them, and while the principles of apparation between these cases which have been adjudged to be within the power of legislature of those beyond its power are not difficult of comprehension or statement, yet their application often becomes very troublesome, especially when a case is near to the dividing line. It is xxx easy to distinguish between the full light of day and the darkness of midnight, but often very difficult to determine whether a given moment in the x twilight hour is

is before or after that in which the light predominates over the darkness. The equal protection of the law which is guaranteed by the Fourteenth Amendment of the Constitution of America does not forbid classification that has been asserted in the strongest language."
(See p. 567 of Judson of Taxation).
The question would, therefore, be whether the levy of the riot tax on both the parties in the village would provide a reasonable basis. It is very difficult to define the parties in the village. There may be certain leading persons in both the parties who have been creating trouble in the village, but the extent or the limit of each party it is very difficult to define. Some of these persons may dispute any affiliation to either party and it would then be difficult to disprove their contention. In the circumstance, the proposal would not form a proper basis for the levy of the riot tax. The basis of taxation must be reasonable so that it would not be difficult to ascertain the individuals or the parties which would come within the classes proposed to be taxed.

Id/- J.R.D. 2 10/3

Remembrancer of Legal Affairs.

U.R. to H.D. No. 4155, dated the 13th March 1951.

KAN/29-6.
4 c.

Legal Department.

Levy of punitive tax on 'class or section' of persons.
Bombay District Police Act, 1890- section 25.

In its office note at page 61 ante, H.D. states that section 25 of the Bombay District Police Act, specifically provides that "the cost of the additional police may be recovered by the imposition of a tax either generally or on all persons who are inhabitants of the local area to which a notification applies or specially on any particular section or sections or a class or classes of such persons. This clearly appears to mean that particular sections of the inhabitants of the affected areas that is, the members of the two contending parties can be made liable to pay the tax. The order of the recovery of cost of additional police if drafted in a form so as to contain the names of persons from whom the tax is to be recovered would, it appears, be legal as no question of exemption would be raised thereby." The H.L.A. is requested to re-consider the question and advise whether an order in the form as suggested above would be proper.

2. The view taken by H.D. is not correct. It is true that under section 25 of the Bombay District Police Act, the cost of additional police may be imposed on any particular section or sections or a class or classes of such persons. The words "class or section" mean a definitely ascertainable body of individuals, not an indeterminate body or group having no clearly defined and non-variable characteristics or criteria by which they may be distinguished from any other body or group. (See 41 Calcutta Weekly Note 1217). The order of the recovery of the cost o additional police if drafted in a form so as to contain th names of persons from whom the tax is to be recovered woul not amount to an order under the first part of section 25 of the Bombay District Police Act namely, "on all persons

who are inhabitants of the local area etc.,"; nor does it fall under the latter part of that section, namely, "particular section or sections or class or classes of such persons" since these individuals though belonging to two diffferentx contending parties would not form a section or sections or a class or classes of such persons. In this respect attention is invited to the R.L.A's previous opinion No. 4155, dated the 13th March 1951, where it is stated "It is very difficult to define the parties in the village. There may be certain leading persons in both the parties who have been creating trouble in the village, but the extent or the limit of each party it is very difficult to define. Some of these persons may dispute any affiliation to either party and it would then be difficult to disprove their contention." In the circumstances, the proposal of H.D. would not be legally feasible.

3. Attention of H.D. is also invited to the Press report that the question of the levy of punitive tax under section 25 of the District Police Act is being challenged in the High Court by petition filed by Shri Mangutkar of village Kini in the Belgaum District on the ground that the levy was ultra vires Art. 14 of the Constitution. Their Lordships have directed that the petitioner should represent the matter first to Government.

Sd/-

Additional Secretary to Government.

U.R. to H.D. No. 6847, dated the 30th April '51.

KAN/33-6.
4.c.

OFFICE OF THE R.L.A.

Show Cause notice.

Bombay District Police Act, 1890, sec.46(6) & Bombay Police Act.

The Bombay District Police Act, 1890 would be repealed by the Bombay Police Act which has now been published after receiving the assent of President. The latter Act will soon be brought into force. It is unnecessary to express any opinion on the provisions of an Act which would be repealed in a short time.

Id/- J.R.D. 14/6

Remembrancer of Legal Affairs.

U.R. to H.D. No. 9156, dated the 15th June 1951.

KAN/30-6.
4 c.

Legal Department.

Section 61(3) of the Bombay District Police Act, 1890, requires the following things to be established before a person can be convicted:-

(1) There should be an assembly in a public street.

(2) The purpose of the assembly must be gaming or wagering.

(3) The person charged must be a member of that assembly.

2. Section 12(1)(a) of the Bombay Prevention of Gambling Act, so far as is relevant for the present purpose, requires the following things to be established before a person can be convicted:-

(1) The personx charged is found gaming or reasonably suspected to be gaming.

(2) This happens in a public street or thoroughfare etc.

3. In the former case the liability of the individual attaches as soon as he is shown to be a member of the particular assembly and no individual act suggesting gaming need be brought home to the person charged. In the latter case it must be shown that the person charged was reasonably suspected of gaming. Therefore some evidence of individual responsibility would be necessary. Therefore the argument of the D.S.P. Ahmedabad in paras 1 and 2 of his letter dated 24-4-51 is substantially correct, though it could be more happily worded.

Id/-

Additional Secretary to Government,

U.R. to H.D. No. 10202, dated the 27th June 1951.

R.I. No.9342/16-5-51

Legal Department.

Cases in which rewards can be granted to Police Prosecutors are governed by Rule 239 of the Bombay Police Manual, 1950, Volume I. Clause (2) of that Rule provides that rewards to Police Prosecutors should be granted to or recommended "only in cases of length and difficulty involving special exertion." The recommendation report dated the 1st June 1950 of Shri J. K. Sawant, the Superintendent of Police shows that 'these trials were lengthy and protracted and voluminous evidence was led.' The endorsement of the Deputy Commissioner Shri Hampton below the above report shows that the case was one of unusual difficulty and complexity. That being so, the necessary conditions laid down by Rule 239 for granting an award to the Police Prosecutor Shri S. G. Rane have been fulfilled. A reward therefore, can be granted to Shri S. G. Rane, if Home Department so deem fit.

Id/- 27/6

Additional Secretary to Government.

U.R. to H.D., No.10273, dated the 28th June 1951.

KAN/30-6.
4 c.

OFFICE OF THE R.L.A.

The meaning and the scope of Art. 14 of the Constitution has been discussed by the Supreme Court at pages 16-19 of the Judgment in the Prohibition Appeals. There is nothing therein which would affect the position stated in the R.L.A's opinion No.3415, dated 24th February 1951.

Id/- J.R.D. 10/9

Remembrancer of Legal Affairs.

U.R. to H.D.No. 14445, dated the 11th September 1951.

KAH/30-6
4 c.

Legal Department.

Cinematograph Act, 1918.
Rules made under - Bom. District Police Act, 1890. Section 39-A.
Rules made under -
Licences whether Personal.

It appears that Shri Parmar the owner of the Chhaya Talkies, Poona has under an agreement transferred the management of the Theatre to one Shri Nakhate for a period of eleven months beginning with the 1st April 1951 but has retained the licence in his own name. The Deputy Secretary, Home Department considers that it is the licensee who is to run the Cinema and if he leases it out the lessee must take out the appropriate licences. The R.L.A. is requested to advice whether the view taken by the Deputy Secretary Home Department is correct.

2. The question whether the lessee of a Cinema theatre has to take out the appropriate licences has to be considered with reference to the Rules framed under section 39-A of the Bombay District Police Act, 1890 and the Cinematograph Act, 1918 and the rules framed thereunder. Rule 2 of the Rules framed under section 39-A of the Bombay District Police Act provides that no premises shall be opended or allowed to remain open for use as a place of public amusement unless the person being the owner, tenant or occupier thereof has obtained a Licence therefor. Rule 10 thereof provides that a Licence for premises shall be in the form of Schedule 'A' thereto appended with any necessary alterations or additions and shall not be transferrable. Reading these provisions together it appears clear that any person whether he happens to be the owner, tenant or occupier of any premises using any place for public amusement must possess a licence in his name in respect of those premises. So also section 3 of the Cinematograph Act, 1918 provides that save as otherwise provided in this Act no person

shall give exhibition by means of a Cinematograph elsewhere than in a place licenced under that Act or otherwise than in compliance with any conditions and restrictions imposed by such licence. Under the rule (3) of the Rules framed by Government under section 8 of this Act the licence is to be in the form of Schedule A appended thereto. Condition 5 of this licence provides that the licence is not transferable but is personal for the benefit of only the licensee mentioned therein and in case the Licencee transfers the same to any person it shall be liable to be cancelled forthwith. Under these provisions also it is x essential that the person giving the exhibition by means of Cinematograph must hold the licence required under the Act in his own name. Consequently the lessee in the present case will have to take out a license in his own name and cannot ~~xx~~ rely upon the license taken by his lessor. The view taken by the Deputy Secretary, Home Department is correct.

Id/-

Additional Secretary to Government.

U.R. to L. & H.D. No.15054, dated, 21st September 1951.

KAN/30-6.
4 c.

Office of the R.L.A.

The short question in this case is whether the order issued by the Additional District Magistrate, Poona on 24-3-1951 is covered by clause (h) section 61(1) of the Bombay District Police Act, 1890. This Bombay District Police Act, 1890, has since been repealed but a similar provision to clause (h) of section 61(1) of the said Act is made in section 101 of the Bombay Police Act, 1951.

2. The carrying of the tall Tazias during Moharrum involves disconnection of publicx services like electricity and telephones thereby causing annoyance to the inhabitants of the locality, depriving them of the use of electricity and telephones, which are normally required for every day life. Under the above provisions of law, the Additional District Magistrate, Poona is quite competent to issue a notification prescribing the height of Tazias. As the practice of cutting of wires seems to have continued for severalx years, before the District Magistrate issues a notification this year, it will be desirable if the District Magistrate enquires from the Poona Electrict Company whether the discontinuance of the practice will or will not cause inconvenience to the public resulting in annoyance.

Id/- J.R.D. 6/9

Remembrancer of Legal Affairs.

U.R. to H.D. No.14306, dated the 7th September 1951.

KAN/30-6.
4 c.

Office of the R.L.A.

In the order of externment which a Magistrate passes against a person under subsection (3) of section 46 of the Bombay District Police Act, 1890, the Magistrate is to "direct such person to remove himself outside the Province or to such place within the Province and by such route and within such time as the Magistrate may prescribe". These provisions therefore lay down that the externee shall know (1) where he has to go to (2) what route he has to take and (3) by what time he has to leave.

Now as regards the first requirement if the externment is outside the Province (State) no place is to be specified but if it is inside the Province (State) the place has to be specified. That is indicated by the use of the word "such". The words 'may prescribe' does not leave it to discretion of the Magistrate to prescribe or not to prescribe a place but only leave it to his discretion to prescribe whatever place he thinks fit. The same considerations apply to the requirements of f route and time.

In the present case in the order of the Magistrate dated 10-12-1950 (page 19 of the file) no place is prescribed although though the externment is not outside the Province (State). The order therefore does not conform to the requirements of section 46(3) of the Act. An appeal against the judgment of the High Court is, therefore, not advisable in this case. Besides, the appeal may not serve any useful purpose because under the New Police Act to be brought into force the words used are "direct such person to remove himself outside the area within the local limits of his jurisidction, by such route and within such time as the said Officer may prescribe." Therefore the requirement as to specification of place is now different.

Id/- J.K.D. 20/6
Remembrancer of Legal Affairs.

KAN/30/6r
4 c.

U.R. to H.L. No.9922, dated the 22nd June, 1951.

Legal Department.

The Home Department view that in view of section 29(1) of the Bombay District Police Act, 1890 (which now corresponds to section 25(1) of the Bombay Police Act, 1951), fine cannot be imposed in addition to dismissal from the Police Force is corrrect. It however appears from Shri Pimputkar's report at page 15 that the amount deposited by Shri Bandekar was not in the nature of a fine in departmental proceedings; it was in the nature of restitution in consideration of which further action by way of prosecution against Shri Bandekar was not to be taken.

Id/-

Additional Secretary to Government.

U.R. to H.D.No. 17010, dated the 25th October, 1951.

KAN/30-6.
4 c.

17997
29-8-51

pp.1-2x ante. The District Magistrate, Abu, states that Shri K.S.Gandhi holds the following three licences for exhibition of cinematograph:-

(i) for cinema exhibition in the Railway European (now Senior) Institute at Abu;

(ii) for cinema exhibition in the Indian (now Junior) Railway Institute at Abu; and

(iii) for cinema exhibition at the Rajputana Club, Abu.

All the three licences were granted under section 5(3) of the Cinematograph Act, 1918, the first licence

pp.7-9 -do- was granted by the Resident, Western Rajputana States and District Magistrate, Railway Jurisdiction under his No.1294/206/37 dated 11-3-1940, for a period of five years from 11-3-1940, and was subsequently

p.9 -do- renewed for a further period upto 10-3-1955. The

pp.5 -do- second licence was granted by the Political Agent, Western Rajputana States, and District Magistrate, Railway Land Jodhpur, under his No.5/26(46) dated 3-4-1946 upto 10th March 1955. The third licence

p.3 -do- was given by the District Magistrate, Abu, for a period of five years with effect from 21-8-1947, which expired on 20th August 1951.

The question for R.L.A's consideration is whether the licences issued by the Political Agent and Resident, Western Rajputana States can be deemed to be valid upto 10th March 1955 or whether it will be necessary for the exhibitor to obtain fresh licences under the Rules for Licensing and Controlling Theatres.

x x x x

See U.R. to H.D. No.15884, dated the 6th October 1951.

Office of the R.L.A.

The Rajputana Club and the Railway Institutes where the licensee is permitted to exhibit cinema films are not theatres or places of public amusement to which the rules made under section 39A of the Bombay District Police Act apply. No question of requiring the licensees to take out a licence under the said rules arises. The licences in the present case were granted under the Cinematograph Act, when the areas were being administered under the Foreign Jurisidiction Order in Council. It is true that on the passing of the Indian Independence Act, 1947, the said under and anything done thereunder lapsed. But the Sirohi State to which the area was retroceded in the meanwhile did not terminate the licences. It is also true that on the merger of the said State in the Province of Bombay the Government of Bombay is not bound to recognize the grant of such licences. But according to the policy laid down by the Government of India, such grants need not be recognized, if they are not bona fide or are unconscienable or against the public policy. The licences in the present case were granted by the Assistant Political Agent under the Cinematograph Act, which was in force in British India. There are no grounds in the present case for disowning the licences already granted.

Id/- J.R.D.5/10

Remembrancer of Legal Affairs.

U.R. to H.D.No.15384, dated the 6th October 1951.

KAN/30-6.
4 c.

19293A/17-9-51.

Office of the R.L.A.

A certain quantity of bullion found in the possession of persons prosecuted and convicted under section 61E of the Bombay District Police Act, 1890, has been ordered by the Court convicting the accused to be confiscated to the State under section 517 Criminal Procedure Code.

The question for consideration is whether the Government of Bombay can dispose of in the open market the gold so confiscated. The Secretary, Reserve Bank writes that it is doubtful whether the Government of Bombay can dispose of the gold in the open market without the permission of the Union Government.

The gold being confiscated to the State by an order of the Court under section 517 Criminal Procedure Code vests in the State. Article 296 of the Constitution also provides that any property accruing by escheat, lapse or bona vacantia for want of a rightful owner, shall, if it is property situate in a State, vest in such State. Therefore in the absence of any law prohibiting the State Government from selling its gold in the open market except with the permission of the Union Government, the State Government can sell the gold in the open market. The Secretary of the Reserve Bank has not referred to any such provision of law. He may be requested to state what provision of law prevents the sale of such gold by the State in the open market. Thereafter the matter may be again referred to the R.L.A. if necessary.

Id/- J.R.D. 1/10
Remembrancer of Legal Affairs.

U.R. to F.D. No.15659, dated the 3rd October 1951.

KAH/30-6.
4 c.

Office of the R.L.A.

Virappaja Fair-offerings at.-

Notice of suit regarding -

The decree obtained by Shri Bandangouda seems to be collusive. From the copy of the judgment at page No. 7 in File II it would appear that out of the six defendants impleaded in the suit defendants 2 to 5 did not appear. Defendant No. 6 was dropped. Defendant 1 filed an apparently contentious written statement. But later on he withdrew his contentions and filed a Purshis that he had no objection to a decree being passed in favour of the plaintiff. No evidence was led in the case, except the plaintiffs own affidavit.

The suit was not a representative suit. It was filed only against the six defendants alleging that they were raising objections to the plaintiffs vahivat. As a matter of fact a large body of the people of the village has been objecting to the plaintiffs assumption of management. The plaintiff seems to be a self-appointed Trustee.

The Math and its lands can be regarded as a Public Religious Trust. It may therefore, be perhaps advisable, to waid until the Public Trust Act is brought into force. After it is brought into force proceedings can be started for the registration of that Trust and for the proper management of its property. The funds now in the hands of the Government may then be handed over to the Trustees appointed under a scheme of management. If a suit is filed against Government by Shri Bandangouda defence on the above lines can be taken.

Id/- J.R.D. 14/11

Remembrancer of Legal Affairs.

U.O. to L.S.G. & P.H.D. No.18059 dated, 14th November 195.

KAN/30-6.
4 c.

Office of the R.L.A.

The view taken by the Deputy Secretary, Home Department, is correct. It is the lessee who is running the theatre and giving the exhibition and he would be required to take out appropriate licences in his own name and cannot rely on the licence taken by his lessor (cf. Addl. Secretary's opinion No.15051, dated the 21st September 1951). However, whether or not the licence should be granted to the lessee or his assignee is a matter for the District Magistrate to decide.

Id/-J.A.D. 22/12

Remembrancer of Legal Affairs.

U.R. to H.D.(Poll.), No.20499, dated the 24th December 1951.

KAH/30-6.
4 c.